

TOWN OF BROOKFIELD
SELECTMEN'S MEETING
TOWN HALL, BANQUET ROOM

MINUTES OF FEBRUARY 3, 2010

SPECIAL SESSION

Chairman Rudy Heller called the meeting to order at 9:00 am and led the group in the Pledge of Allegiance. Other members present: James Allen and Peter O'Connell.

Camera Operator: John David Holdcraft

Press: David Dore

Public: Acting Police Chief Christopher Welsh, Fire Chief Peter Martell, Robert Orne, Arthur Jay, Cemetery Commissioner, Herbert Chaffee, Highway Superintendent; Lois Moores, Tax Collector.

APPROVAL OF WARRANTS:

Mr. O'Connell moved to approve the Expense Warrant of February 3, 2010 in the amount of \$99,355.37; Mr. Allen seconded; so voted.

APPROVAL OF MINUTES:

The approval of Selectmen's minutes was passed over.

ACKNOWLEDGEMENT OF MONTHLY REPORTS & MINUTES

Mr. Allen moved to acknowledge the receipt of the following monthly reports and minutes; Mr. O'Connell seconded; so voted.

Treasurer's Cash Reconciliation: 10/31/2009

Tax Collector: 1/31/2010

ANNOUNCEMENTS:

Mr. Heller read various announcements which included:

Certificate of Completion: Christopher Welsh, Acting Police Chief, for attending Day 5 – Executive Development, Critical Incident Command, School Preparedness on 1/26/10 by Municipal Police Institute, Inc.

Master Plan Forum: 7:00 p.m. Thursday, February 4, 2010 at the Elementary School Library. The forum is sponsored by the Master Plan Committee and they would like you to attend and bring your ideas and concerns about zoning, transportation and governance. Have your say in the future of Brookfield.

Mr. O'Connell announced that he had researched Mr. Holdcraft's allegations regarding the legality of the budget process for the Town of Brookfield voted upon by both the Board of Selectmen and the Advisory Committee for Fiscal Year 2011. According to the

Town's by-laws, the Selectmen develop and present the budget to Town Meeting either with or without the recommendation of the Advisory Committee. This was confirmed by a representative of the Department of Revenue.

Further, Mr. O'Connell reported regarding the Town Clerk's recent allegation that there was a violation of the Open Meeting Law relative to the forwarding of a certain e-mail. Both Mr. O'Connell and Ms. Neylon, Administrative Assistant, had independently requested an opinion of Patricia Smith, Esq., Assistant District Attorney (ADA). It was her opinion that there was no deliberation of the Board, just preparation of meeting materials. Therefore it was her opinion that there was no violation of the Open Meeting Law. Relative to Mr. Holdcraft's comments that the Town Clerk's received stamp must be used when posting of meeting notices, Mr. O'Connell reported learning that the use of the stamp is not technically mandated but if it is used, the Clerk's office should be consistent. Relative to posting meetings without a date (i.e. first and third Wednesday of each month) it is better if the actual dates are given (i.e. February 3 and 17). It is better to give more information – to err on the side of providing more information than less.

There has also been some question as to how much information must be in the minutes of a given committee's or board's meetings. ADA Smith said that the minutes must include the motion and votes taken along with a summary of the discussion around the vote.

Public Access Period:

John David Holdcraft responded to Mr. O'Connell's comments above by stating that the "Advisory Committee makes up the budget", the DOR can state their opinion but the town by-law makes it very clear", the Selectmen are "trying to do everything", "take control", "switch things around", the "election was a waste of money", "re-bricking, you don't do that in the middle of winter", "you can't take the law and switch it around", "when are you going to tell the people, afterward?" and "the Open Meeting Law is being broken all the time".

In response, Mr. O'Connell quoted the town by-law relative to who makes up the budget. Mr. Heller said there was no desire of this Board to take power over everything and it has included the Advisory Committee in the budget process and they have agreed with the proposed process.

Mr. Allen spoke with regard to Mr. Holdcraft's comments about the Special Town Election and his implication that the Board tried to circumvent the law: the Town Clerk presented the idea to the Board to use hold a Special Election and it seem logical at the time. Mr. Allen further stated that he resented the implication that he was being dishonest and trying to bend the law. Mr. Heller stated that if Mr. Holdcraft had looked at the agenda prior to the meeting, he would have seen that his issues were going to be addressed during the meeting.

New Business:

1. APPOINTMENT OF POLICE OFFICER

Acting Police Chief Christopher Welsh was present to request that the Board appoint Robert Orne of North Brookfield to the part-time Police Officer/Patrolman position that was recently vacated. Mr. Orne was also present and answered some questions from the Board. Chief Welsh told the Board that Mr. Orne had been a Brookfield Officer for about six years and he was glad to have him back.

Mr. O'Connell moved to appoint Mr. Robert Orne as a part-time Police Officer with a term to expire on June 30, 2010; Mr. Allen seconded; so voted.

Old Business:

2. POLICE BOAT

Fire Chief Peter Martell was present for this discussion and explained his logic behind keeping the boat rather than including it in the surplus property sale this spring. He explained that the boat, purchased in 2007 through various grants through the Police Department, is currently stored at the Highway Garage, has been water-tested by members of the Fire Department, and has been found to be stable for recovering people from the water. However, it still will need a little work before it can be used.

He estimates that with the firefighter's volunteer labor, the actual cost of materials will be about \$200, which he could take from their Asset, Repair, Replacement Account and/or the Fire Department's Expense Budget. Most of the cost would be for safety-related lights. The cost of insuring the vehicle, estimated to be about \$200, comes from the Town's General Insurance Account.

In the past, the Police and Fire Departments have called upon either North Brookfield or Sturbridge but it takes time for them to come. It would be helpful to have a local boat if time is of the essence. As far as training, at least three on the current department have sufficient training/boating experience and courses are available in boating safety that other members could take. The boat would be marked "Brookfield Public Safety" and would be available to the Police Department should they need it. In Spring, Summer and Fall, the Fire Department plans to store the boat at the Fire Station behind the vehicle that could tow it, but they might look into keeping it at a private wharf. When not in service, they could either store it at the Highway Garage or have it "shrink wrapped" and stored outside.

Mr. O'Connell moved to transfer the boat from the province of the Police Department to the Fire Department and to add it to the Fire Department's inventory; Mr. Allen seconded for discussion purposes. He said he would like regionalization of this service considered first. Mr. O'Connell responded that accepting the boat gives the Town a potential for regional equipment program should the program move from an idea to actuality. Mr. Heller agreed that the idea of regionalizing equipment had not made it to the top three that the regional Selectmen's group had agreed to work on but he will bring it up at the next meeting. Mr. Allen said that he was in favor of getting rid of the boat.

Vote: Mr. Heller and Mr. O'Connell in favor of the motion; Mr. Allen opposed; the motion was carried.

3. FINAL TREE WARDEN'S WOOD POLICY

Mr. Herbert Chaffee, Tree Warden and Highway Superintendent, was present to discuss the proposed wood policy. During the discussion, Mr. Allen pointed out that the Board should not assume that the Superintendent of Highways will also be the

Tree Warden. Someday, the Tree Warden may not be the Highway Superintendent and may not have the use of the Highway's equipment. The Tree Warden will be responsible for the administration of the policy.

Mr. O'Connell moved to adopt the Brookfield Wood Policy with minor amendments; Mr. Allen seconded; so voted. The Policy, as voted, reads:

Town of Brookfield Wood Policy:

The following policy is to be used when:

Public shade trees are to be removed under the direction of the Tree Warden. Public shade trees are defined under Mass. General Laws Chapter 87, Section 1, as all trees within the public ways or on the boundaries thereof.

The tree warden will determine if:

1. *The tree has a value as firewood*
2. *Has no value*

If the wood cannot be used as firewood due to the type or condition and has no value, then it is disposed of at the town property on Herbert Road.

If the wood can be used as firewood, the tree warden determines if the property abutter to the tree wants the wood. If so, all or part of the wood may be left as requested. This is providing that if the wood were left on site, it would not create any safety hazard to the public. The wood is left in large sections that would need to be cut and split by the recipient for use.

If the abutter rejects the wood, then the tree warden decides upon disposal of the wood (this may include disposal by the tree warden for his personal use).

Note: Once the wood is left at a property, the Town is no longer responsible for its disposal.

4. MILL STREET DRAINAGE UPDATE

Highway Superintendent Chaffee gave the Board the following update on the progress of CSX in clearing their drainage culvert on Mill Street. As of Monday afternoon about 3:00 p.m. CSX has cleared the granite culvert that goes under their railroad track that runs parallel to Mill Street. The culvert pipe was plugged, causing Mill Street to flood and have to be closed for several days. Mr. Chaffee said that the Town shouldn't have any major problems from this pipe now as it is totally cleared. Future maintenance of the culvert is the responsibility of CSX. The Highway Department now has a direct telephone number it can call when it spots a potential problem and is documenting all problems relative to the CSX site on Mill Street.

5. **GRANT UPDATES - HIGHWAY**

Hazardous Mitigation: Mr. Chaffee reported receiving news that they could now apply for the Hazardous Mitigation grant. They will file with Mill Street as the priority and Long Hill Road and a section of Route 148 second and third on the list. The grant application includes funding to raise a section of Mill Street about 3 feet out of the high water level, to put in another culvert pipe, and to repave that area. The original application has been held up because CMRPC (Central Massachusetts Regional Planning Commission) had not completed its required Hazardous Mitigation report, which is now completed. The grant application is due mid-February.

STRAP grant: The Highway Department received notice that their grant application had been denied but they will re-apply. The STRAP (Small Town Road Assistance) program is a part of the Commonwealth Capital program for Fiscal Year 2009 and administered by the Executive Office of Transportation and Public Works (EOTPW). It is coordinated with other discretionary state spending programs that affect development patterns in Massachusetts. A community's Commonwealth Capital Score will constitute 30% of the total STRAP score. Small towns with a population smaller than 7,000, according to the latest Federal Census, may request up to \$500,000. The STRAP Program is now a 100% grant.

- **ASOL grant:** The Access to State Owned Land (ASOL) (Chapter 811 of the Acts of 1985) grant application was submitted to the EOTPW for funding for potential work on Quaboag Street. This grant application also was denied but the Highway Department will reapply.

6. **CLASS II LICENSES**

Mr. Heller reported that he had not yet written the letter that he had promised to write but it would be done for the February 9th agenda, so this matter was passed over.

7. **CULTURAL COUNCIL MEMBERSHIP**

Mr. Heller reported that the Board had learned that the Cultural Council's membership and length of term was set by State Law. Terms are for three years and the Council may have up to 22 members.

Mr. Allen moved to amend the appointments of Tina K. Lesord and Janet Seery who had been appointed at the January 20, 2010 meeting to end on June 30, 2012; Mr. O'Connell seconded; so voted.

8. **PERSONNEL ISSUES**

Resignation – Assistant Town Clerk: Mr. O'Connell moved to accept with regret the resignation of Ms. Sheila Frangiamore from her assistant of Assistant Town Clerk;

Mr. Allen seconded; so voted. It was noted that Town Clerk, Linda Lincoln had already appointed Barbara Mundell as her new Assistant. It was agreed that the matter of who should appoint the Assistant Town Clerk needed to be clarified, i.e. does it need to go through the Personnel Board? Is a Wage Authorization Form (WAF) needed? Mr. O'Connell said that the WAF was useful in an instance like this. Mr. O'Connell also asked the Chairman to clarify the matter with the Town Clerk and the Personnel Board.

Review of Job Descriptions:

Administrative Assistant: It was agreed that this job description should be reviewed to see if there was anything that could be shifted to another individual/department so that the Admin. Asst's time could be used in a more productive way and to make sure that she is not working above her job description. It was also agreed to request the Personnel Board conduct this review and a meeting with them will be requested later in February.

Police Chief: Mr. O'Connell volunteered to conduct this review and return it to the Board for their approval prior to sending it to the Personnel Board; this is to be done in anticipation of advertising for a new Chief in the spring.

Town Clerk (appointed): Ms. Neylon, Administrative Assistant and former Town Clerk of the Town of Oakham, will work with the Linda Lincoln, Town Clerk, to create a job description for the Board's approval in anticipation of the change in May from an elected to an appointed Town Clerk. The job description would then be forwarded to the Personnel Board.

"Municipal Clerk": The Board considered the creation of the new position of Municipal Clerk which would combine several current clerk positions and increase flexibility.

Changes in Town's By-Laws: There may some usefulness of removing some aspects of Town By-laws, converting them to policies and/or procedures, thereby making them easier to change and/or correct, when necessary.

Wage Authorization Forms (WAF): A policy is needed to make it clear to the Department Heads when the use is the WAF is necessary and when it is not. The Administrative Assistant will consult with the Treasurer and report back at a future meeting.

The above matters will be brought before the Personnel Board at a future meeting.

9. JANUARY 19, 2010 SPECIAL TOWN ELECTION

Mr. Heller reviewed how the Special Town Election came about. The State law indicates that the matter of whether or not the Town Clerk's position may be changed from Elected to Appointed must come before the townspeople two times, once at an Annual Town Meeting and once at an Annual Town Election. When the Town Clerk came before the Board asking to place the question on the ballot of a Special Town Election, the same day as the Special State Election, the Board concurred with her reasoning and allowed the election. Following the election, the Town Clerk brought to

the attention of the Selectmen that the Special Election, for this purpose, was not according to the State law.

The correction may be handled in several ways other than holding the election again in May; one option is a Home Rule Petition and the other being a Governor's Bill.

Mr. O'Connell moved to sign and send a letter to the Governor requesting that the Special Town Election be validated; Mr. Allen seconded; so voted. Mr. Allen said the people had spoken and he felt comfortable with the action. Mr. O'Connell stated that the law mandated two separate votes to stop something from "sneaking" through and he felt that there had been plenty of advertisement of the issue. Mrs. Lincoln herself had several articles in the local newspapers, the opposite opinion was clearly stated on Mr. Holdcraft's "big yellow sign" and the margin of the vote was clear. In fact the margin of approval of the Special Election was more than that for the Special State Election. The townspeople can always petition to change the position back at a future date.

It was agreed to ask the Town Clerk to sign the letter to the Governor.

At 10:35 a.m. it was agreed to hold a five minute recess.

New Business:

10. FACILITIES USE REQUEST

A Facilities Use Request was received from Jeanne Lytle, member of the Cultural Council, requesting use of the Town Hall on May 1, 2010 for a Family 50's Dance. They are expecting 100 people.

Mr. O'Connell moved to approve the request subject to the group setting up both sound and video on the first floor, requiring they rent a portable toilet to be used in conjunction with the Town Hall toilet and that they meet with Mr. William Thompson, the Town Hall Custodian to work out any special request; Mr. Allen seconded; so voted.

11. SMALL TOWN ADMINISTRATOR'S OF MASSACHUSETTS MEETING (STAM)

There was a notice of an upcoming STAM meeting and the Administrative Assistant asked the Board if they wanted her to attend or not. Mr. O'Connell moved to give the Administrative blanket approval to attend STAM meetings through June 30, 2010, subject to the topic, her workload, and budget availability; Mr. Allen seconded; so voted. This will be placed on an agenda mid-year for Fiscal Year 2011 consideration.

12. MASSENGERYINSIGHT

A notice of a February 16 meeting of MassEnergyInsight was received and acknowledged. Mr. Heller volunteered to attend and other members agreed.

13. USE OF PONDS POLICY OR BY-LAW

It was announced that Chief Welsh was researching the need for and possible creation of a policy or by-law regarding the use of Police Details for public events on public property within the town.

14. SIGNATURES NEEDED:

Fire Truck Loan Documents:

Documents were received from James Dunbar, Treasurer, regarding a renewal note on the fire truck. The loan is for one year in the amount of \$172,000 and with 1.99% interest; the issuer is TD Bank. The old note of \$193,500 is being retired and paying off \$21,500 which was budgeted. The vote authorizing the original purchase of the fire truck by borrowing was voted at the November 13, 2006 Special Town Meeting.

Mr. O'Connell moved to approve the one year note as indicated above; Mr. Allen seconded; so voted.

Community Development Strategy (CDS):

The CDS, as revised at the January 26, 2010 Public Hearing, was presented to the Board for their signatures. Mr. Allen moved to approve and sign the CDS; Mr. O'Connell seconded; so voted.

15. 11:00 a.m. TAX COLLECTOR AND DELINQUENT TAXES

At 11:00 a.m. Lois Moores, Tax Collector, joined the meeting to discuss delinquent taxes. The Board expressed their appreciation to Mrs. Moores for re-arranging her work day so that she could come in early. Mr. Heller thanked both Mrs. Moores and Mr. O'Connell for the work that they had done in creating the spreadsheet report showing the grand total of money owed to the town in delinquent taxes between 2002-2009. The following points were made during the discussion:

- The auditors noted in their recent management letter that the Town (1) had high amounts of uncollected taxes and should adopt a more aggressive tax collection policy and (2) that the Town Treasurer should auction or otherwise dispose of properties that had been taken for non-payment of taxes. These actions would significantly improve the Town's free cash position.
- Uncollected taxes between 2002 – 2009 total over \$650,000, not including interest. Mrs. Moores explained that money owed the Town in the period before 2002 is cleared up as far as the audit is concerned but the town can still collect.

- State law requires that the Tax Collector notify a delinquent taxpayer each year of all delinquent taxes owed. Mrs. Moores noted that her current policy is to issued demand notices only for the taxes owed in the current year. Mrs. Moores will send out notices to the 270 individuals who owe back taxes, many of whom missed a single payment and may be unaware that they owe back taxes. She will need to send a separate letter for each year that taxes are owed and are past one year.
- Mrs. Moores has the authority to set up payment plans. The Department of Revenue (DOR) recommends these plans be in writing, but the applicant must keep the current taxes current and must make a significant payment on the old taxes. Currently, Mrs. Moores has one written agreement but doesn't expect any problems acquiring the same from the other two tax payers on the payment plan. She indicated that she does not forgive interest and will keep property out of tax title as long as the tax payer keeps up on the agreed upon payment plan. When asked how early she could begin getting out the letters, Mrs. Moores said "about one and a half to two months (April)" and this was because she expects to be quite busy collecting both Motor Vehicle Excise and Real Estate Property payments.
- Mrs. Moores explained that she was under the impression that the Town was protected against the loss of delinquent taxes by automatic municipal liens, but Mr. O'Connell found out from the Department of Revenue that the automatic lien is good for only five years dating back from January 1 of the current year. Therefore, the Town could lose back taxes if a property on which back taxes are owed during the period 2002-2006 is sold.
- Mrs. Moores explained that Motor Vehicle Excise taxes are sent to the Deputy Collector who handles all collections and that the tax payer pays all fees; there is no cost to the Town for this service.
- The Tax Collector records only go back to 1996.
- There is a 14% interest accrued daily on all back taxes.
- It was noted that in some cases the Town may owe the taxpayer money but this will be resolved on a case-by-case basis.

The Board and Mrs. Moores agreed upon the following:

- 1) The first letter to delinquent tax payers would be sent out beginning in early March, giving them 30 days to pay. Priority will be given to taxpayers owing delinquent property taxes between 2002-2006 and to taxpayers owing larger amounts of back taxes;
- 2) Those properties that are not up-to-date within the 30 days will be advertised in a local newspaper;
- 3) Following that, she will transfer the properties to Treasurer's tax title.
- 4) This procedure will be followed even if there is a written payment agreement for back taxes owed for the period 2002-2006.
- 5) Mrs. Moores will adjust her budget and her clerk's time to get these letters out sooner rather than later.

- 6) Mr. O'Connell will work with Mrs. Moores to draft a written policy on how to handle all delinquent taxes and will attempt to have this completed within the month.
- 7) The Administrative Assistant was instructed to add to a status report from the Tax Collector to the end of March agenda.

Correspondence:

16. THANK YOU NOTE - POLICE

A thank you note from Wagon Wheel resident, Joanne DeFosse, was read and will be placed in Officer Adam Cameron's personnel file.

17. CMRPC – RESPONSE TO “SIDEWALKS ON ROUTE 9” LETTER

Mr. Lawrence Adams, Executive Director of CMRPC, wrote to the Board in acknowledgement of its recent correspondence requesting the installation of sidewalks on Route 9 near the center of Brookfield. Senator Stephen Brewer and David Delanski, MPO West Sub-region were copied on the letter, which indicated there was currently a shortage of funding for this kind of project but that CMRPC has a “Walkable Communities” program that they'd like to offer to Brookfield. It was agreed to respond to Mr. Adams that the Board was interested in the presentation.

18. DENIAL – ORDER OF CONDITIONS BY CONSERVATION COMMISSION

The Board acknowledged receipt of a copy of the above relative to property at 92 Quaboag Street.

Other Correspondence:

The following correspondence was acknowledged and copies are available in the Selectmen's Office:

19. **CDBG – FY09 WARE RIVER VALLEY GRANT**
20. **ANNOUNCEMENT – MAY 4 TRADE SHOW**
21. **LEGAL MEMO: REGIONALIZATION OF MUNICIPAL SERVICES**
22. **LEGAL MEMO: UPDATE ON GREEN COMMUNITIES PROGRAMS**

Public Access Period:

John David Holdcraft spoke to Mr. Allen to indicate that it was not his character that he (Mr. Holdcraft) had questioned, that his comments were aimed to the Board. He also said that “you were notified before the (special) election that it could not take place”; that relative to submitting and preparing the budget, “what's the big deal, we should be working together”, “it's not about control, its about checks and balances”, The Board of Selectmen have always sat in on the Advisory Committee's meeting and gave their comments”, there “were problems at the last Annual Town Meeting” because “of the COLA” and “you guys were taking money from here, there, and everywhere”.

ADJOURNMENT TO EXECUTIVE SESSION:

At 11:32 a.m. Mr. Heller entertained a motion to adjourn to Executive Session to discuss strategy with respect to litigation (Reason numbered 3: To discuss strategy with respect to collective bargaining or litigation, if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body) and to return to open session solely to adjourn; Mr. O'Connell so moved; Mr. Allen seconded; so voted with Mr. Allen voting aye; Mr. O'Connell voting aye; Mr. Heller voting aye.

ADJOURNMENT:

At 12:24 p.m., following the return to open meeting from Executive Session, Mr. Allen moved adjourn the meeting; Mr. O'Connell seconded; so voted.

Respectfully submitted,

Donna L. Neylon, Administrative Assistant

Date approved by Board: _____